THE HON'BLE SRI JUSTICE A.GOPAL REDDY

WRIT PETITION No12548 OF 1995

DATED: 06-03-2006

Between:

P.Nagaraja Naidu . . .Petitioner

And

The Deputy Registrar, DCC

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WRIT PETITION No12548 OF 1995

O R D E R:

The petitioner claims that he was sanctioned a crop loan of Rs.5,000/- in loan No. ST 1145. Though he sustained heavy loss in agriculture, he paid Rs.4,000/- belatedly in number of instalments, to the Puthalapattu Primary Agricultural Cooperative Society, but the same has not been given credit to. Surprisingly, he was served with a notice for sale of the property for due realization of the loan amount, which is in violation of principles of natural justice. Since no notice was served before issuance of the said notice, he preferred the present writ petition.

The General Manager of the second respondent filed a counter, wherein, he denied the fact that the petitioner availed a loan of Rs.5,000/- and paid Rs.4,000/- belatedly in number of instalments. It is stated that the petitioner was sanctioned a short term crop loan of Rs.9,000/- and the same was paid through a Pay Order, dated 25-06-1991. As per the ledger entries, it was also encashed. On petitioner's failure to pay the loan amount, Puthalapattu Cooperative Agriculture Credit Society filed an application under Section 71 of the Andhra Pradesh Cooperative Societies Act (for short "the Act") before the first respondent for issuance of a certificate under Section 71(1) of the Act. Accordingly, the Arbitrator issued a notice to the petitioner and the said notice was served on 26-03-1994 by affixing to the main door of the

petitioner's house. As no objections were received, the Arbitrator issued a Certificate/Award, dated 15-04-1994. The same has become final, since no appeal was filed by the petitioner under Section 76(3) of the Act. Based on the said certificate, the Secretary of the above PACS filed E.P.No.2251/94-95 for realization of the due amount. On filing such EP, the petitioner paid a sum of Rs.4,000/- on 22-02-1994. The same was given credit to the loan amount. In addition to the amount of Rs.9,000/- borrowed by the petitioner from the Puthalapattu Cooperative Agricultural Credit Society, the petitioner borrowed two long term loans in the erstwhile Primary Agricultural Development Bank Limited, Chittoor, under mortgage of landed properties, repaid only two instalments and committed default, for which the second respondent bank also filed E.P.No.386/95-96 for recovery of the dues, duly following the procedure laid down in the Act.

The facts as stated in the counter have not been traversed by the petitioner. In view of the same, the contention of the petitioner that the sale notice was issued without following the due procedure and in violation of principles of natural justice cannot be accepted. If he is aggrieved for non-crediting the amount already paid, it is open for him to approach the authorities concerned or move the execution Court or settle the matter amicably. If he so chooses, he can file an appeal against the sale certificate issued by the 1st respondent.

The writ petition fails and is accordingly dismissed. There shall be no order as to costs.

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(A.GOPAL REDDY, J)

6th MARCH, 2006.

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